IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

Crl.MC.No. 895 of 2007()

CRIME NO.53/2007 OF CHEVAYUR POLICE STATION

PETITIONER/ACCUSED:

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1. GOPINATHAN NAIR, AGED 54 YEARS,
S/O.KONTHAN NAIR,
ANANTA PURI, PALATH P.O., KOZHIKODE.

2. LEELAMMA, AGED 49 YEARS, W/O.GOPINATHAN NAIR,
ANANTA PURI, PALATH P.O., KOZHIKODE.

BY ADV. SRI.P.SANJAY
SRI.M.MUHAMMED SHAFI

RESPONDENTS/DEFACTO COMPLAINANT:

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1. STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/03/2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.895 of 2007

Dated this the 23rd day of March 2007

O R D E R

The petitioners face allegations interalia under Section 315 of the Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act. According to the petitioners, they are innocent. They cannot seek anticipatory bail in view of the bar under Section 18 of the Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act. They are prepared to surrender before the learned Magistrate. They apprehend that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously.

2. I find the apprehension to be totally baseless. This court has made it clear many times in Ali v. State of Kerala [2000(2) KLT 280, Shanu v. State of Kerala [2000(3) KLT 452, Krishnakumar v. State of Kerala [20005(1) KLD(Cri.)42] and P.P.Kader v. State of Kerala [2005(1) KLD(Cri.)250] that the mere fact that the offence under Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act is triable by a court of Session would not justify abdication of powers by the learned

Magistrates to consider the bail applications on merits. I do not also find any reason to assume that the learned Magistrate would not consider the bail application on merits, in accordance with law and expeditiously. Sufficient general directions have already been issued in Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339]. I have no reason to assume that the learned Magistrate is not aware of the law and will not follow the law.

3. In the result, this Criminal Miscellaneous Case is dismissed but with the observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are exceptional and compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy//

PA to Judge.

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006